

AGENDA



Thursday, June 8, 2006

 + Back

**Zone Hearings/App Ordinances/Restrictive Covenants
RECOMMENDATION FOR COUNCIL
ACTION**

ITEM 103 PH

Subject: C14-06-0071 - Fifth & Congress - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 501 Congress Avenue (Town Lake Watershed) from central business district-central urban redevelopment combining district (CBD-CURE) zoning to central business district-central urban redevelopment combining district (CBD-CURE) zoning to change a condition of zoning. Planning Commission Recommendation: To grant central business district-central urban redevelopment combining district(CBD-CURE) with conditions. Applicant: Walton Stacy Office Partners (Tom Stacy). Agent: Armbrust & Brown, LLP (Lynn Ann Carley). City Staff: Jorge E. Rousselin, 974-2975.

Additional Backup Material

(click to open)

D Staff Report

For More Information: Jorge E. Rousselin, 974-2975.

ZONING REVIEW SHEET**CASE:** C14-06-0071**P. C. DATE:** May 9, 2006**ADDRESS:** 501 Congress Avenue**OWNER:** Walton Stacy Office Partners
(Tom Stacy)**AGENT:** Armbrust & Brown, LLP.
(Lynn Ann Carley)**REZONING FROM:**

CBD-CURE (Central Business District - Central Urban Redevelopment) combining district

TO: CBD-CURE (Central Business District - Central Urban Redevelopment) combining district**AREA:** 0.507 Acres (22,084.92 square feet)**SUMMARY STAFF RECOMMENDATION:**

Staff recommends CBD-CURE-CO (Central Business District - Central Urban Redevelopment Conditional Overlay) combining district with conditions. The CURE combining district shall modify the floor to area ratio (FAR) from 12:1 to 30:1. Under a public restrictive covenant, the daily vehicle trips shall be restricted to 14,221 trips per day. Furthermore, under a public restrictive covenant, the applicant shall submit an access study at the time of site plan in order to evaluate driveway functions for the proposed project; and participate, at owner's expense, in the Great Streets Program for portions of public right-of-way fronting the subject site that have not been improved to Great Streets standards. The modifications made to Section 25-2-643 under Ordinance No. 010802-13 addressing the building setback shall remain in place as described by:

Modification of Section 25-2-643 to allow a building setback of 40 feet from the property line adjacent to Congress Avenue for a structure whose minimum height is 30 feet from ground level and whose maximum height may exceed 90 feet.

The Staff recommendation is based on the following considerations:

- 1.) The proposed uses are compatible with existing CBD and commercial, office, retail, and mixed-use development along Congress Avenue
- 2.) The subject site lies within the designated Core Downtown District as identified by the Downtown Austin Design Guidelines;
- 3.) The Downtown Austin Design Guidelines recommend providing dense, multi-tenant, pedestrian-oriented development at street level while encouraging the densification of the downtown core;
- 4.) The subject property lies within the downtown CURE district;
- 5.) The proposed development will not be subject to compatibility standards; and
- 6.) Great Streets Program participation via a public restrictive covenant, at owner's expense, has been recommended and approved by the City Council on CURE projects in the downtown core.

DEPARTMENT COMMENTS:

The subject property consists of a 0.507 acre (22,084.92 square feet) zoned CBD fronting Congress Avenue. The property is currently developed with offices and a bank. The application of the CURE combining district is proposed to modify the FAR from 12:1 to 30:1, yielding a maximum height range of 675 feet to 700 feet. The proposed redevelopment of the property includes a demolition of existing structures with development of a mixed-use tower with office, retail, and condominiums. In conjunction with the proposed rezoning application, the applicant will seek a partial vacation of the existing alley between Congress Avenue and Brazos Street. The site will be subject to the provisions of the Capitol View Corridor and the Congress Avenue, East 6th Street / Pecan District [LDC 25-2-643] beyond the approved modifications under C14-01-0029. The site lies within the Congress Avenue National Register Historic District.

The site was rezoned from CBD to CBD-CURE on August 2, 2001 under Ordinance No. 010802-13. The CURE combining district allowed the modification of the following:

- Modification to the floor to area ratio from 8:1 to 12:1;
- Modification of Section 25-2-643 to allow a building setback of 40 feet from the property line adjacent to Congress Avenue for a structure whose minimum height is 30 feet from ground level and whose maximum height may exceed 90 feet.

Furthermore, as part of the rezoning of the property, a restrictive covenant under document No. TRV 2001135650 was imposed addressing façade design features, construction materials, and development of the site. (Please see Attachment A). A pending restrictive covenant termination application under case C14-01-0029(RCT) has been filed which proposes to terminate the existing restrictive covenant.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
Site	CBD-CURE	Offices / Bank
North	CBD-CURE	Offices / Hotel
South	CBD-CURE / CBD-H	Museum / Retail / Offices
East	CBD	Parking
West	CBD / CBD-H	Retail / Offices

WATERSHED: Town Lake

DESIRED DEVELOPMENT ZONE: Yes

CAPITOL VIEW CORRIDOR: Yes

CONGRESS AVENUE DISTRICT: Yes

CURE DISTRICT: Yes

EAST 6TH STREET / PECAN DISTRICT: Yes

6TH STREET NATIONAL REGISTER HISTORIC DISTRICT: Yes

NEIGHBORHOOD ORGANIZATIONS:

- 23--Old Pecan Street Assn.
- 402--Downtown Austin Neighborhood Assn. (DANA)
- 438--Downtown Austin Alliance
- 511--Austin Neighborhoods Council
- 623--City of Austin Downtown Commission

742--Austin Independent School District
 744--Sentral Plus East Austin Koalition (SPEAK)
 751--Pecan Street Owners Association
 767--Downtown Austin Neighborhood Coalition

SCHOOLS:

Austin Independent School District

- Matthews Elementary School
- O. Henry Middle School
- Austin High School

CASE HISTORIES:

NUMBER	REQUEST	PLANNING COMMISSION	CITY COUNCIL
C14-01-0029	CBD to CBD-CURE	06/05/01: APVD STAFF REC OF CBD-CURE (8-1, JM-NAY)	06/14/01: APVD CBD-CURE (7-0); 1ST RDG 08/02/01: APVD CBD-CURE (6-0), 2ND/3RD RDGS

RELATED CASES:

NUMBER	REQUEST	PLANNING COMMISSION	CITY COUNCIL
C14H-98-0005	CBD to CBD-H	07/21/98: APVD CBD-H BY CONSENT (8-0)	08/20/98: APVD CBD-H (4-0); 1ST RDG 12/03/98: APVD CBD-H (6-0) 2ND/3RD RDGS
C14-00-2207	CBD to CBD-CURE	11/14/00: APVD STAFF REC OF CBD-CURE (6-1-1, JM-NAY, RC-ABSTAIN)	11/30/00: APVD CBD-CURE W/CONDS (6-0); ALL 3 RDGS
C14-00-2208	CBD to CBD-CURE	11/14/00: APVD STAFF REC OF CBD-CURE (6-1-1, JM-NAY, RC-ABSTAIN) 05/21/01: HISTORIC LANDMARK COMMISSION: APVD DEMOLITION PERMITS FOR 401, 413, & 415-417 CONGRESS (9-0-1, LAKY-ABSTAIN) CONTINGENT UPON SDP FOR COUSINS STONE 4TH & CONGRESS PROJECT	11/30/00: APVD CBD-CURE W/CONDS (6-0); ALL 3 RDGS



SUBJECT TRACT 
 PENDING CASE 
 ZONING BOUNDARY 
 CASE MGR: J. ROUSSELIN

CASE #: C14-06-0071
ADDRESS: 501 CONGRESS AVE
SUBJECT AREA (acres): 0.507

ZONING

DATE: 06-04

INTLS: SM

CITY GRID
REFERENCE
NUMBER
J22

STAFF RECOMMENDATION

Staff recommends CBD-CURE-CO (Central Business District - Central Urban Redevelopment Conditional Overlay) combining district with conditions. The CURE combining district shall modify the floor to area ratio (FAR) from 12:1 to 30:1. Under a public restrictive covenant, the daily vehicle trips shall be restricted to 14,221 trips per day. Furthermore, under a public restrictive covenant, the applicant shall submit an access study at the time of site plan in order to evaluate driveway functions for the proposed project; and participate, at owner's expense, in the Great Streets Program for portions of public right-of-way fronting the subject site that have not been improved to Great Streets standards. The modifications made to Section 25-2-643 under Ordinance No. 010802-13 addressing the building setback shall remain in place as described by:

Modification of Section 25-2-643 to allow a building setback of 40 feet from the property line adjacent to Congress Avenue for a structure whose minimum height is 30 feet from ground level and whose maximum height may exceed 90 feet.

The Staff recommendation is based on the following considerations:

- 1.) The proposed use is compatible with existing CBD and commercial, office, retail, and mixed-use development along Congress Avenue
- 2.) The subject site lies within the designated Core Downtown District as identified by the Downtown Austin Design Guidelines;
- 3.) The Downtown Austin Design Guidelines recommend providing dense, multi-tenant, pedestrian-oriented development at street level while encouraging the densification of the downtown core;
- 4.) The subject property lies within the downtown CURE district;
- 5.) The proposed development will not be subject to compatibility standards; and
- 6.) Great Streets Program participation via a public restrictive covenant, at owner's expense, has been recommended and approved by the City Council on CURE projects in the downtown core.

BASIS FOR RECOMMENDATION

1. The proposed zoning should be consistent with the purpose statement of the district sought.

LDC 25-2-311:

(A) The purpose of a central urban redevelopment (CURE) combining district is to promote the stability of neighborhoods in the central urban area.

(B) A CURE combining district may be used:

- (1) for sustainable redevelopment of homes, multifamily housing, and small businesses;
- (2) to accommodate high priority projects that enhance the stability of urban neighborhoods including the development of affordable housing and small businesses along principal transportation routes that serve a neighborhood;
- (3) to improve the natural environment; and
- (4) to encourage high quality development with architectural design and proportion compatible with the neighborhood.

The proposed rezoning meets the purpose statement set forth in the Land Development Code. The subject property is located within the designated CURE District and lies within the Core Downtown District as identified by the Downtown Austin Design Guidelines.

2. *The proposed zoning should promote consistency, and orderly planning.*

The proposed change and recommended conditional overlay is compatible with the surrounding area as it is surrounded by CBD zoning and adjacent to mixed-use and commercial development compatible to the proposed uses.

EXISTING CONDITIONS

Site Characteristics

The subject property consists of a 0.507 acre (22,084.92 square feet) zoned CBD fronting Congress Avenue. The property is currently developed with offices and a bank. The application of the CURE combining district is proposed to modify the FAR from 12:1 to 30:1, yielding a maximum height range of 675 feet to 700 feet. The proposed redevelopment of the property includes a demolition of existing structures with development of a mixed-use tower with office, retail, and condominiums. In conjunction with the proposed rezoning application, the applicant will seek a partial vacation of the existing alley between Congress Avenue and Brazos Street. The site will be subject to the provisions of the Capitol View Corridor and the Congress Avenue, East 6th Street / Pecan District [LDC 25-2-643] beyond the approved modifications under C14-01-0029. The site lies within the Congress Avenue National Register Historic District.

The site was rezoned from CBD to CBD-CURE on August 2, 2001 under Ordinance No. 010802-13. The CURE combining district allowed the modification of the following:

- Modification to the floor to area ratio from 8:1 to 12:1;
- Modification of Section 25-2-643 to allow a building setback of 40 feet from the property line adjacent to Congress Avenue for a structure whose minimum height is 30 feet from ground level and whose maximum height may exceed 90 feet.

Furthermore, as part of the rezoning of the property, a restrictive covenant under document No. TRV 2001135650 was imposed addressing façade design features, construction materials, and development of the site. (Please see Attachment A). A pending restrictive covenant termination application under case C14-01-0029(RCT) has been filed which proposes to terminate the existing restrictive covenant.

Transportation

1. No additional right-of-way is needed at this time.
2. The trip generation under the requested zoning is estimated to be 14,221 trips per day, assuming that the site develops to the maximum intensity allowed under the zoning classification and the proposed uses and sizes (without consideration of setbacks, environmental constraints, or other site characteristics).
3. The traffic impact analysis for this site was waived because no improvements have been identified by DPWT or WPDRD for the surrounding area. The applicant has agreed and is required to submit an access study at the time of site plan in order to evaluate driveway functions for the proposed project. The site is also limited to an unadjusted trip rate of 14,221 trips per day. These trips are for both C14-06-0069 and C14-06-0071 cumulatively. These two conditions should be included in a conditional overlay.

Environmental

1. The site is not located over the Edwards Aquifer Recharge Zone. The site is located in the Town Lake Watershed of the Colorado River Basin, which is classified as an Urban Watershed by Chapter 25-8 of the City's Land Development Code. It is in the Desired Development Zone.
2. Impervious cover is not limited in this watershed class; therefore the zoning district impervious cover limits will apply.
3. This site is required to provide on-site structural water quality controls (or payment in lieu of) for all development and/or redevelopment when 5,000 s.f. cumulative is exceeded, and detention for the two-year storm. At this time, no information has been provided as to whether this property has any pre-existing approvals which would preempt current water quality or Code requirements.
4. According to flood plain maps, there is no flood plain within the project area.
5. At this time, this site is fully developed with impervious cover; therefore there are no environmental features.
6. Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

Water and Wastewater

1. The site has existing City of Austin water and wastewater utility service.
2. If water or wastewater utility improvements, or system upgrades, or offsite main extension, or utility adjustment, or utility relocation are necessary, the landowner, at own expense, will be responsible for providing. Also, the utility plan must be reviewed and approved by the Austin Water Utility.
3. The plan must be in accordance with the City of Austin design criteria.
4. The water and wastewater utility construction must be inspected by the City.
5. The landowner must pay all associated and applicable City fees.

Site Plan

1. This site is within the South Congress Capitol View Corridor. View Corridor is strictly enforced regarding the building base elevation and maximum height allowed within the corridor.
2. This site is within the Congress Avenue National Registered Historic District. Review by the Historic Landmark Commission may be required for any site plan work.
3. FYI - In the CBD and DMU districts (with certain exceptions), for the first four stories of a building that are above grade, the maximum front yard setback is 10 feet, and the maximum

street side yard setback is 10 feet. These setbacks do not apply to the portion of a building adjacent to a plaza or a protected tree. [Sec. 25-2-594].

4. Any site plans for this property will be subject to the requirements of the Congress Avenue Overlay , LDC 25-2-643, which include height restrictions and limitations of reflective materials use.

Zoning Case No. C14-01-0029

RESTRICTIVE COVENANT

OWNER HINES AUSTIN LIMITED PARTNERSHIP, a Texas limited partnership
ADDRESS 515 Congress Ave , Suite 1724, Austin, Texas 78701-3053
CONSIDERATION Ten and No/100 Dollars (\$10 00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged
PROPERTY Lots 1-6, Block 56, Original City of Austin, Travis County, according to the map or plat on file in the General Land Office of the State of Texas, (the "Property")

Handwritten initials or signature.

WHEREAS, the Owner of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions in connection with any future redevelopment of the Property, in a manner that incorporates the floor to area ratio or setback modification provided for in City of Austin Ordinance No 010802-13, a copy of which is attached hereto as Exhibit "A" ("Redevelopment"),

NOW, THEREFORE, it is declared that the Owner of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant. These covenants and restrictions shall run with the land, and shall be binding on the Owner of the Property, its heirs, successors, and assigns.

- 1 In this restrictive covenant
Existing Tower means the high-rise tower located at 515 Congress Avenue
New Tower means the high-rise office tower to be constructed at 501 Congress Avenue as part of the Redevelopment of the Property
- 2 The following design features and construction materials shall be incorporated into the Redevelopment of the Property
 - A The dark glass façade at the Congress Avenue lobby level of the Existing Tower shall be removed and relocated to create an open-air, covered pedestrian arcade along Congress Avenue. The new Congress Avenue lobby level façade of the Existing Tower and the New Tower shall have clear or lightly tinted glass.
 - B The dark glass at the 6th Street lobby level of the Existing Tower shall be removed and replaced with clear or lightly tinted glass.
 - C The lower 90 feet of the Congress Avenue façade of the redeveloped Existing Tower and the New Tower shall have at least two distinct parts that are differentiated by design elements such as color, materials, texture and column spacing to avoid a monolithic horizontal face along the length of the block.
 - D Except for the setback reduction permitted by the CBD-CURE zoning, the Redevelopment of the Existing Tower and the construction of the New Tower shall comply with Section 25-2-643 of the City Code.

- 3 If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions
- 4 If any part of this agreement or covenant is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect
- 5 If at any time the City of Austin fails to enforce this agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it
- 6 This agreement may be modified, amended, or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, and (b) by the owner(s) of the Property subject to the modification, amendment or termination at the time of such modification, amendment or termination

EXECUTED this the 16 day of July, 2001

OWNER:

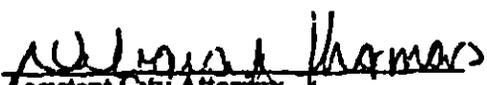
HINES AUSTIN LIMITED PARTNERSHIP,
a Texas limited partnership

By Hines Interests Limited Partnership,
a Delaware limited partnership,
its general partner

By Hines Holdings, Inc.,
a Texas corporation,
its general partner

By 
Staman Ogilvie
Executive Vice President

APPROVED AS TO FORM


Assistant City Attorney
City of Austin

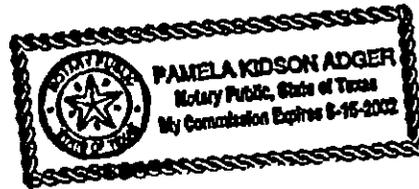
THE STATE OF TEXAS §

COUNTY OF Harris §

This instrument was acknowledged before me on this the 16 day of July, 2001, by Staman Ogilvie, Executive Vice President of Hines Holdings, Inc., a Texas corporation, the general partner of Hines Interests Limited Partnership, a Delaware limited partnership, the general partner of Hines Austin Limited Partnership, a Texas limited partnership, on behalf of the corporation and partnerships

Pamela Kidson Adger
Notary Public, State of Texas

After Recording, Please Return to.
City of Austin
Department of Law
P O Box 1546
Austin, Texas 78767-1546
Attention: Diana Minter, Legal Assistant



ORDINANCE NO. 010802-13

AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE PROPERTY LOCATED AT 501-515 CONGRESS AVENUE FROM CENTRAL BUSINESS DISTRICT (CBD) TO CENTRAL BUSINESS DISTRICT-CENTRAL URBAN REDEVELOPMENT (CBD-CURE) COMBINING DISTRICT.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. The zoning map established by Section 25-2-191 of the City Code is amended to change the base district from Central Business District (CBD) to Central Business District-Central Urban Redevelopment (CBD-CURE) combining district on the property described in File C14-01-0029, as follows:

Lots 1-6, Block 56, Original City of Austin, Travis County, according to the map or plat on file in the General Land Office of the State of Texas, (the "Property")

locally known as 501-515 Congress Avenue, in the City of Austin, Travis County, Texas, and generally identified in the map attached as Exhibit "A".

PART 2. The regulations for the Property within the boundaries of the CURE combining district established by this ordinance are modified as follows:

- 1. Development of the Property may not exceed a floor to area ratio (F.A.R.) of 12 to 1.**
- 2. Section 25-2-643 of the City Code is modified to allow a building setback of 40 feet from the property line adjacent to Congress Avenue for a structure whose minimum height is 30 feet from ground level and whose maximum height may exceed 90 feet.**

Except as specifically restricted under this ordinance, the Property may be developed and used in accordance with the regulations established for the central business district (CBD) base district and other applicable requirements of the City Code.

PART 3. The Council waives the requirements of Section 2-2-3, 2-2-5, and 2-2-7 of the City Code for this ordinance.

PART 4. This ordinance takes effect on August 13, 2001.

PASSED AND APPROVED

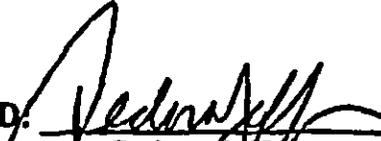
August 2, 2001

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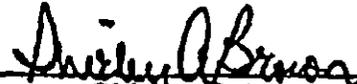
Kirk Watson
Mayor

APPROVED:



Sedora Jefferson
Acting City Attorney

ATTEST:



Shirley A. Brown
City Clerk

FILED AND RECORDED
OFFICIAL PUBLIC RECORDS

Dana DeBeauvoir

03-13-2001 04 08 PM 2001135650
SAZANJ 621 00
DANA DEBEAUVOIR, COUNTY CLERK
TRAVIS COUNTY, TEXAS

Recorders Memorandum-At the time of recording this instrument was found to be inadequate for the best reproduction because of illegibility, carbon or photocopy discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.



AUSTIN DESIGN COMMISSION

May 22, 2006

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CHAIR

PHILIP REED
VICE CHAIR

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JOAN HYDE

HOLLY KINCANNON
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FERRY LORENZ
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Mayor Will Wynn
Mayor Pro Tem Danny Thomas
Council Member Raul Alvarez
Council Member Betty Dunkerley
Council Member Jennifer Kim
Council Member Lee Leffingwell
Council Member Brewster McCracken

Re: 501 Congress

HOLLYANNE MELTON
STAFF LIAISON

Dear Mayor and Members of the City Council,

At a special called meeting on May 8th, the Design Commission received a presentation of the 501 Congress high-rise Mixed-Use project proposed by developer Tom Stacy. We wish to express our appreciation to Mr. Stacy and his representative, Mr. Richard Suttle for bringing this project forward to us very early in the process, so that we have the opportunity to comment at a time when the program is not yet fully developed and design decisions are not yet solidified.

The Commission is comfortable with the height, density and mix of uses proposed, especially the number of residences that are included. We appreciate the facts that the ground-floor retail on both blocks open onto the streets, that the structure east of Brazos will be considered to accommodate future additional uses above the garage levels, and that there is a stated commitment to include Great Streets amenities in the streetscapes of both blocks that comprise the project.

Our support of this project, however, is tempered with several deep concerns:

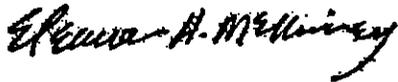
- **FLY-OVER:** The proposed "fly-over", connecting the Condo/Office/Hotel/Retail Tower with the Parking Garage across Brazos is in direct conflict with the Council-adopted Downtown Design Guidelines, which specifically prohibit fly-overs on Brazos Street, south of Sixth (Refer to P.34, Area Wide #6, "Protect Important Public Views"). The disruption of views down the street corridors and, more importantly, the fact that fly-overs divert pedestrians from the sidewalks were the primary motivators for this crucial prohibition in the Guidelines.
- **ALLEY CLOSURE:** The proposed closure of the north-south alley is in conflict with the intent of the provisions of the Guidelines (Goal #8 of the guidelines is "Create a Safe Downtown for Austin.") The Council has directed applicants to bring all proposed alley closings to the Design Commission. Vacation of the alley to allow the building to connect over it is not seen as a problem, but it is essential that it remain open to traffic in order to allow emergency and service vehicles to be able to continue through the block without having to back into or out of the alley onto Sixth

Street.

- **GARAGE:** The structure on the block from Brazos to San Jacinto needs to include occupied space at the east and west ends, overlooking and enlivening both Streets, and the garage levels need to be flat-floor to allow future conversion of some of the volume of the building to other uses as downtown becomes more transit oriented. P. 80, *Guidelines for Buildings #6, "Create Quality Construction."* The Commission refrains from offering specific design solutions, but notes that Flex-space (residences, live-work flats, artist studios, offices for small businesses, etc.) can be accommodated at each end of the structure, with adequate ceiling height afforded by using vertical pairs of garage levels. Such occupied space can share vertical circulation with the garage and there is the opportunity for each space to have extremely convenient adjacent parking.
- **GREAT STREETS MASTER PLAN:** In addition to Great Streets amenities, there needs to be a commitment to, and accommodation of, all aspects of the Great Streets Master Plan including eventual conversion of Brazos and San Jacinto to two-way traffic.

The Commission is concerned that if these issues are not resolved at this early stage as a condition of the requested Zoning Changes and Restrictive Covenant Waivers requested, it will be difficult or perhaps impossible to adequately address them at a later date.

Sincerely,



Eleanor McKinney, Chair
Austin Design Commission

Cc:

Laura Huffman, Assistant City Manager
Greg Guernsey, Director, Neighborhood Planning and Zoning
File



May 9, 2006

Planning Commissioners and Chairman Riley:

RE: Letter of Support (conditional) for the proposed Fifth & Congress Project (Rezoning Cases No. C14-06-0069 and No. C14-06-0071) on your May 9, 2006 Agenda (Item # 11)

Please let this letter serve as indication of the Downtown Austin Neighborhood Association's (DANA's) support of the requested rezoning from CBD to CBD-CURE on the two lots (120 East 5th and 501 N. Congress) on a conditional basis, which we explain below.

The DANA Steering Committee have met with the developer's representatives, and we feel that the requested zoning changes 69 and 71 (CBD to CBD-CURE) will allow for a significant addition to the residential stock of Downtown Austin, especially in a mixed-use building with retail development and a hotel and/or office space in "the mix". The height is very appropriate (and exciting) for this important corner of 5th & Congress; and the developers have employed a "world-class" design architect that will undoubtedly produce a building design fitting for this very prominent site in Downtown Austin.

We do have a number of concerns about what was presented to us by the development team, which causes us to offer "conditional" support of the requested zoning changes. These include:

1. We are probably most concerned about the proposal to build a 12-story parking garage at the corner of 5th & Brazos Streets. We recognize the need for parking generated by the proposed 700-foot tall mixed use building, and think the garage proposed is necessary and fine; and especially support the retail use proposed on the first floor of the garage. What we really think will be a "missed opportunity" is if there is no residential use (or other use) built above the parking garage. This block is one of those in the "high intensity, mixed-use triangle" of Downtown Austin that has no height/density restrictions; there needs to be multiple floors of another use above the proposed parking garage (perhaps not "matching" the proposed 700 foot tall tower across Brazos, but 400 to 500 foot tall is certainly appropriate, we feel). Another option to explore now, in the design phase of the project, is a certain amount of underground parking (since the development team has expressed concern of whether people are willing to park 12 stories up), under both buildings. Other recent downtown developments (the Hilton, Austin City Hall) have put all or a significant percentage of their parking underground. "Wrapping" the 5th Street elevation of the parking garage with residential units (in addition to building above the garage) is also an attractive option to us, especially if some underground parking is provided (to reduce the need to go 12 stories in the parking garage).
2. The pedestrian "flyover" (pedestrian bridge over Brazos Street) linking the proposed parking garage with the Tower is expressly against the Downtown Design Guideline's goal of "enlivening" downtown streets. Austin's climate doesn't call for this separation, and people parking in the garage can cross Brazos Street on the sidewalk to gain access to the Tower proposed.

The development team also asked for DANA's support for two more requests they feel they need to make this project work which DANA can't support; this includes a request to terminate the current Restrictive Covenant on their 5th & Congress site (your Rezoning Case No. C14-01-0029(RCT), Item #8 on your May 9th Agenda) and a request to vacate the existing public alleyway that runs north-south through the 5th & Congress block (bounded by 5th & 6th, Congress and Brazos). We can't support these requests because:

1. The Restrictive Covenant currently on the 5th & Congress portion of the proposed development is a covenant to provide a pedestrian arcade. Pedestrian arcades are strongly supported in the Downtown Austin Design Guidelines as to greatly increase pedestrian comfort on downtown streets, and as a way to insure street level retail has pedestrians walking by all times of the year in all types of weather. The development team has stated they can't sacrifice the floor space to provide an arcade; but there is no reason horizontal shade devices can't be added to the current building design extending out over the sidewalk on both Congress Avenue and 5th Streets (over the public right-of-way). This pedestrian overhead cover is so desired by the City of Austin that the City Ordinance (No. 030612-93) codifying certain portions of the Downtown Austin Design Guidelines (in 2003) provides for the annual license fee to be waived. The new proposed development should provide this pedestrian overhead cover and also get the annual license fee waived.
2. The alleyway shouldn't be vacated, or if it is, a permanent alleyway/drive through the building (running north-south, connecting 5th and 6th Streets) to insure services can be provided to the building and delivery trucks don't have to block traffic on either 6th or 5th Streets backing in to service loading/unloading areas. The recent Frost Bank building, and other downtown "full block" buildings have maintained a working alleyway (building above them, but saving the paved alley/drive, with height for delivery trucks) and are arguably much better developments for choosing to do so. The development team has argued saving this current alleyway would conflict with the elevator lobbies for the new Tower; but this conflict can certainly be solved through design (and the project is said to be in pre-design, not even schematic design, by the development team; now is the time to incorporate such community and City Commission desired changes to the presented project).

Let me state that DANA is incredibly excited by the "vision" that the development team (including Tom Stacy at T. Stacy & Associates) has for this project, especially its height/density and mixed-use nature. We just feel it can be improved, and hope the development team will not take our conditional support as project-killing criticism, but as constructive criticism; and that they will take the wishes of the community to heart in looking for ways to improve the design of the project.

Sincerely,

Andrew Clements (via e-mail)

Andrew Clements
President
Downtown Austin Neighborhood Association

PUBLIC HEARING INFORMATION

This zoning/rezoning request will be reviewed and acted upon at two public hearings: before the Land Use Commission and the City Council. Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During its public hearing, the board or commission may postpone or continue an application's hearing to a later date, or may evaluate the City staff's recommendation and public input forwarding its own recommendation to the City Council. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

During its public hearing, the City Council may grant or deny a zoning request, or rezone the land to a less intensive zoning than requested but in no case will it grant a more intensive zoning.

However, in order to allow for mixed use development, the Council may add the MIXED USE (MU) COMBINING DISTRICT to certain commercial districts. The MU Combining District simply allows residential uses in addition to those uses already allowed in the seven commercial zoning districts. As a result, the MU Combining District allows the combination of office, retail, commercial, and residential uses within a single development.

For additional information on the City of Austin's land development process, visit our website:

www.cl.austintx.us/development

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice.

Case Number: C14-06-0071

Contact: Jorge Rousselin, (512) 974-2975

Public Hearing:

May 9, 2006 Planning Commission

Stavre WUNDER (Hong 'Em' High
Saloon, LLC

Your Name (please print)

201-205 E. 6TH ST., AUSTIN, TX 78701

Your address(es) affected by this application



Signature

5/3/06

Date

I am in favor
 I object

Comments:

I'm not sure I see a change
in the zoning in this Notice. I assume
it is supposed to be CBD to CBD use.
Either way, we stand in support
of this project and zoning changes
as needed by the Developer.

RECEIVED

MAY 09 2006

If you use this form to comment, it ~~is~~ **not** for the Neighborhood Planning & Zoning

City of Austin

Neighborhood Planning and Zoning Department

Jorge Rousselin

P. O. Box 1088

Austin, TX 78767-8810

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Case Number: C14-06-0071

Contact: Jorge Rousselin, (512) 974-2975

Public Hearing:

May 9, 2006 Planning Commission

Elizabeth Joblin

Your Name (please print)

411 Brazos #107 Austin, TX 78701

Your address(es) affected by this application

Shull J

Signature

Date

5-9-06

Comments:

We have not had a chance to review plans

Building dominating Capitol Hill corridor. This building should be smaller. Inappropriate FAR

To Planning Commission

RECEIVED

MAY 09 2006

If you use this form to comment, it may be returned to:

City of Austin

Neighborhood Planning & Zoning

Neighborhood Planning and Zoning Department

Jorge Rousselin

P. O. Box 1088

Austin, TX 78767-8810



PUBLIC HEARING INFORMATION

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Case Number: C14-06-0071
Contact: Jorge Rousselin, (512) 974-2975
Public Hearing:
May 9, 2006 Planning Commission



Michael Chapman
Your Name (please print)

411 Brazos, Austin TX 78704
Your address(es) affected by this application

Michael Chapman 5-9-06
Signature Date

Comments: *Nobody Great about side walk*

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MAY 09 2006

Neighborhood Planning & Zoning

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City of Austin
Neighborhood Planning and Zoning Department
Jorge Rousselin
P. O. Box 1088
Austin, TX 78767-8810

ARMBRUST & BROWN, L.L.P.
ATTORNEYS AND COUNSELORS

100 CONGRESS AVENUE, SUITE 1300
AUSTIN, TEXAS 78701-3744
512-435-2300

FACSIMILE 512-435-2360

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MAY 31 2006

Neighborhood Planning & Zoning

May 31, 2006

RICHARD T. SUTTLE
(512) 435-2310
rsuttle@ablaw.com

Jorge Rousselin
City of Austin Zoning Review Department
505 Barton Springs Road, 5th Floor
Austin, Texas 78701

Re: Fifth & Congress (C14-06-0069 & C14-06-0071)

Dear Mr. Rousselin:

This letter is to inform you that we are still in negotiations with Paul Hilgers of the Neighborhood Housing and Community Development office regarding the affordable housing issue on the above-referenced project. We will provide City Council an update as negotiations proceed.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,

Richard J. Suttle, Jr.
Richard T. Suttle, Jr.

by 

cc: Greg Stroniska
Tom Stacy